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November 2, 2016

By Hand Delivery

Mayor Thomas Roach and the
Honorable Members of the Common Council
City of White Plains
City Hall
255 Main Street
White Plains, New York 10601

Re: FASNY v. Mayor Thomas Roach, et al., Index No. 2967/15
(Sup. Ct. Westchester Cty. Env'tl. Claims Part)
(Stipulation of Settlement, So Ordered Sept. 12, 2016) (Lefkowitz, J.);
Site Plan and Special Permit Application;
Applicant: French-American School of New York ("FASNY")
Subject Property: 336 Ridgeway (Section 131.14, Block 9, Lot 3)

Dear Mayor Roach and Members of the Common Council:

Pursuant to the above-referenced Stipulation of Settlement (the "Settlement Stipulation"), which the Common Council authorized at its September 6, 2016 Meeting, FASNY hereby respectfully submits a modified reduced density Application (the "Alternative Plan Application") for Special Permit and Site Plan Approval for a "secondary school" to be located upon the above-referenced Property. In connection with this Alternative Plan Application, FASNY hereby respectfully submits the following documents and plans:

- Building Permit Application, prepared by JMC, dated October 31, 2016;
- Full Environmental Assessment Form, Part 1, prepared by AKRF Inc., dated October 31, 2016;
- Environmental Analysis, prepared by AKRF, Inc., dated October 31, 2016;

- Amended Transportation Management Plan, prepared by AKRF, Inc., dated October 31, 2016;
- Amended Construction Management Plan, prepared by Turner Construction Company, dated October 31, 2016;
- Amended Sustainability Checklist, prepared by AKRF, Inc., dated October 31, 2016;
- Stormwater Pollution Prevention Plan, prepared by JMC, dated October 31, 2016;
- Amended Site Plans, prepared by JMC, dated October 31, 2016;
- Landscaping Plan, prepared by Stantec Architecture & Engineer LLC, dated October 31, 2016;
- Architectural Plans, prepared by Stantec Architecture & Engineer LLC, dated October 31, 2016, and;
- Construction Cost Estimate (Public Improvements), prepared by JMC, dated October 31, 2016.

The primary modification to the Application that was before the Council in August 2015 (the “Original Site Plan Application”) is that FASNY is only seeking approval for development of Parcel A, which would be used as an Upper School. Moreover, Hathaway Lane would be maintained as a public roadway, and access to the Upper School would be from Hathaway Lane via Ridgeway. The layout of Parcel A has been modified to accommodate the necessary parking and vehicular circulation entirely within that Parcel.

As expressly recognized in the Settlement Stipulation, based on the City’s preliminary review, “the Alternative Plan presents a significantly reduced plan which does not require the closure of Hathaway Lane,” and “presents a potentially reasonable alternative for resolving and settling” the above-referenced litigation, which “the City encourage[s] FASNY to present . . . for consideration as a formal application” pursuant to the terms and conditions of the Settlement Stipulation.

Pursuant to the Settlement Stipulation, the City shall require the full Administrative Record for the Original Site Plan Application to be part of the record of the Alternative Plan Application, in accordance with Section 7.3.6 of the City Zoning Ordinance. This Record includes, but is not limited to: (i) the draft environmental impact statement, which the Council accepted as complete on August 6, 2012 (the “DEIS”); (ii) the final environmental impact statement, which the Council accepted as complete on September 16, 2013, (the “FEIS,” collectively with the DEIS, the “EIS”), and; (iii) the Findings Statement which the Council adopted pursuant to the State Environmental Quality Review Act (“SEQRA”), on December 19, 2013 by a 6-1 vote (the “SEQRA Findings”).

The Environmental Analysis included in this Submission, which was prepared by FASNY's planning consultant, AKRF, Inc., shows that the modifications to FASNY's Original Site Plan Application will not result in any new significant adverse impacts or new information that was not previously analyzed in the EIS and addressed in the Council's SEQRA Findings or otherwise pose any significant adverse environmental impacts. See 6 N.Y.C.R.R. § 617.9(a)(7). Indeed, the Alternative Plan Application reflects a reduction in the School's potential impacts.

The layout of the primary elements of the School in the Alternative Plan is substantially consistent with the Upper School elements of the Original Site Plan Application. The school buildings for the Upper School, the athletic fields, and parking areas are all in substantially the same locations, and substantially similar sizes, to what was previously analyzed in the EIS and the SEQRA Findings. The principal differences between the current Alternative Plan Application and the Original Site Plan Application are:

- Development is limited to Parcel A, and only includes the Upper School;
- Hathaway Lane will be maintained as a public roadway;
- Main access to the Upper School will be from Hathaway Lane via Ridgeway;
- Proposed enrollment at FASNY's Upper School is capped at 640 students, and is limited to Grades 6 to 12 to avoid potential impacts associated with traffic (reduced from 950 students in grades N-12 – i.e., a 33% reduction);
- Total proposed building square footage has been reduced from 243,000 square feet to approximately 148,000 square feet (39% reduction). The Black Box Theater building (6,000 square feet) has been removed from Parcel A. The Lower School building (79,000 square feet), Conservancy greenhouse and accessory structures, and 557 North Street have been removed from the Alternative Plan.
- The number of parking spaces has been reduced from 348 parking spaces to 248 spaces (29% reduction) in connection with the lower cap on student enrollment;
- Two main parking areas are proposed, rather than three in the Original Site Plan;
- Approximately 75 parking spaces are proposed to be land-banked to be constructed only if necessary. The spaces to be land-banked include the western-most row and the middle bay in the Northern parking lot;
- The bus pick-up and drop-off area will be to the north of the Upper School, rather than to the east. The vehicular pick-up and drop-off area will be to the east of the Upper School rather than the north;

- Reflecting the financial constraints imposed by the student cap and the expense of the many mitigation measures imposed by the SEQRA Findings, certain elements of the Upper School would be deferred. The elements of the Upper School originally planned to be constructed during Phase II (i.e., with the Lower School), would now be constructed as part of Phase IB. These elements include: the multi-purpose playing field in the northwest corner of Parcel A, the softball/baseball field, the Performing Arts Center, athletic field shed, and third basketball and squash courts. All other elements of the Proposed Project (i.e., the Upper School on Parcel A and associated driveways and parking areas) would be considered Phase IA. As with the Original Site Plan Application, the commencement of Phase IB would be deferred to seven years or less after the completion of Phase IA,, and;

- As a result of these modifications, the maximum number of Project-generated trips on Ridgeway between 7:00 AM and 9:00 AM, has been reduced from 715 trips to 413 trips (42% reduction).

Again, these modifications ultimately reflect a further reduction in the School's impacts as compared to the Original Site Plan considered in the EIS. Accordingly, pursuant to SEQRA, the Council, which remains the Lead Agency for the Alternative Plan's environmental review, can issue a determination that no supplemental environmental review is required. See 6 N.Y.C.R.R. § 617.9(a)(7).

Special Permit Standards

FASNY respectfully submits that its Application is consistent with the Special Use standards set forth in the City Zoning Ordinance.¹ As the Council is aware, and bears repeating, the inclusion of a use as allowable by Special Permit in the City's Zoning Ordinance "is tantamount to a legislative finding that the permitted use is in harmony with the general zoning plan and will not adversely affect the neighborhood," and an Applicant need only "show compliance with any legislatively imposed conditions on an otherwise permitted use." Retail Prop. Trust v. Bd. of Zoning Appeals of Hempstead, 98 N.Y.2d 190, 746 N.Y.S.2d 662, 666 (2002) (citation omitted). FASNY complies with the Special Use standards set forth in the City Zoning Ordinance as follows:

6.5.1 The location and size of the special permit "use," the nature and intensity of the operations involved in it or conducted in connection with it, the size of the site in relation to it, and the location of the site with respect to "streets" giving access to it are such that it will be in harmony with the appropriate and orderly development of the area in which it is located.

The Amended Traffic Management Plan ("TMP") submitted herewith, which is substantially similar to the TMP submitted in conjunction with the Original Site Plan, demonstrates that FASNY can and will comply with all conditions of requirements that the

¹ While the Zoning Ordinance sets forth Individual Standards for certain Special Permit uses, there do not appear to be Individual Standards applicable to "private secondary" schools, or for the Project's accessory tennis and basketball courts. (See Zoning Ordinance § 6.7).

Council concluded in its SEQRA Findings were necessary to avoid and/or mitigate any potential significant traffic impacts of the School.

Moreover, while FASNY challenged the rationale in the SEQRA Findings respecting Ridgeway access for the School, as set forth in greater detail in the Environmental Analysis, the Alternative Plan addresses the Council's stated concerns. Thus, while FASNY continues to disagree with the Council's Finding that the Original Site Plan would not "preserve the Comprehensive Plan designated role of Ridgeway as a Collector Street," the Alternative Plan reduces the amount of traffic on Ridgeway from the Project analyzed in the FEIS. The maximum number of trips on Ridgeway between 7:00 AM and 9:00 AM, has been reduced from 715 trips to 413 trips (42% reduction). Therefore, the instant Application, which reduces the number of trips on Ridgeway by almost half as compared to the original Project, preserves the role of Ridgeway as a Collector Street.

As also detailed in the accompanying Environmental Analysis, under the 2019 Build conditions, all study area intersections and lane groups/approaches would continue to operate at acceptable levels of service (i.e., Level of Service D or better). Therefore, the Alternative Plan would not result in significant adverse traffic impacts based on the intersection analysis and the previously established criteria for identifying significant adverse impacts.

Consistent with the requirements of the SEQRA Findings, the buildings and structures of the School Project have a design and character that is consistent with the high-quality design of the residences in the surrounding neighborhood. (See SEQRA Findings at 58.) The buildings are being designed to reflect the height, materials, and fenestration of surrounding homes, and also to be complementary to the natural surroundings.

As with the Original Site Plan Application, and as contemplated by the SEQRA Findings, all buildings, athletic fields, and structures have been located no less than seventy-five (75) feet from adjacent residential properties in the surrounding neighborhood. (See SEQRA Findings at 59.) This will preserve the open space character of the Project Site, and its perimeter edges with residential uses.

The operation of the School will be in harmony with the residential character of the neighborhood. School operations will normally occur during daytime hours and activities during the evening and weekend hours will be minimal and not intrusive to residential uses, similar to the previous use of the Site by the Ridgeway Country Club. It is generally considered that school uses are in harmony with residential uses.

In sum, there can be no rational basis to anticipate that the FASNY School Project would adversely affect the orderly development of the surrounding areas, as these areas are already developed as a mix of residential, institutional, and recreational uses.

6.5.2 The location, nature and "height" of "buildings," walls and fences and the nature and extent of existing or proposed plantings on the site are such that the special

permit "use" will not hinder or discourage the appropriate development and "use" of adjacent land and "buildings."

In addition to locating all buildings, athletic fields and structures no less than 75 feet of adjacent residential properties (well in excess of Zoning Ordinance requirements), the instant plans further fulfill the requirements of the SEQRA Findings by setting forth a comprehensive Landscaping Plan, which is substantially similar to that submitted with the Original Plan and which shows how the School's buildings, athletic fields, structures, and parking areas will be screened to the maximum extent practicable. (See SEQRA Findings at 59.) The Plan explains how all such landscaping will be watered and maintained. (See *id.* at 59 & 64.)

The proposed buildings all comply with the height requirements of the Zoning Ordinance. They have been designed to include elements of residential architecture. All fences or walls will be designed to be in compliance with the Zoning Ordinance, and in keeping with the character of the Project Site. Existing vegetation along the perimeter of the Project Site will be retained and enhanced to the extent possible. Exterior site lighting will be dark-sky compliant. All lighting will be designed to prevent objectionable glare observable from adjoining streets and properties and otherwise consistent with Section 4.4.20 of the City Zoning Ordinance. (See SEQRA Findings at 42.)

Again, respectfully, there can be no reasonable basis to anticipate that the Proposed Project would adversely affect the orderly development or use of the surrounding areas as they are already developed as a mix of residential, institutional, and recreational uses.

6.5.3 Operations in connection with any special permit "use" will not be more objectionable to nearby properties by reason of noise, traffic, fumes, vibration or other characteristics than would be the operations of permitted "uses" not requiring a special permit.

The FASNY Upper School Project will not generate any noise, traffic, fumes, vibration or any other characteristic that would not be generated by a public school or house of worship of similar size and scope. Both of these uses are permitted principal uses in the R1-30 Zoning District, which do not require a Special Permit. It is well established that the benefits that accrue to a community from a school make them inherently suitable for residential neighborhoods, regardless of whether they are public or private.

Again, FASNY's Amended TMP shows how FASNY will comply with all requirements and conditions that the Council concluded were necessary to avoid and/or mitigate the Project's traffic impacts. Notably, the Amended TMP contains specific provisions to avoid noise and fume impacts from traffic, including monitors to enforce New York State anti-idling requirements and enforceable measures to restrict parking lot noise. (See SEQRA Findings at 96 & 103-104.) The Findings further conclude that the School's stationary sources will not produce an unmitigated significant adverse impact. (*Id.* at 97.)

The School will incorporate a number of measures so as to reduce greenhouse gas emissions, and FASNY has committed to designing the Project in such a way that it could

qualify for LEED Silver certification. (See id. at 98 & 124.) The Amended TMP, Amended Coordinated Review Sustainability Checklist, and Amended Construction Management Plan each address relevant areas of greenhouse gas emissions. (See id. at 98) In sum, the mandatory busing program, encouragement of car-pooling and public transit, and preferred parking for no/low emission vehicles will all contribute to a reduction in greenhouse gases.

The Findings further conclude that the School's stationary mechanical equipment will operate at noise levels below the White Plains Noise Ordinance, and will not produce an unmitigated significant adverse impact. (Id. at 104.) FASNY will only test its emergency generator at midday on weekdays. (See id. at 105.) FASNY's Amended Construction Management Plan includes requirements for noise mitigation, and has specific applicability to construction workers, including their hours of operation. (See id.)

Based on the amended stormwater pollution prevention plan ("Amended SWPPP") submitted herewith, with the implementation of the proposed stormwater management plan, the proposed on-site improvement will not have an adverse impact on downstream properties.

As explained in the Amended TMP, circulation on the Site and at the entrance and exit points has been designed to provide maximum convenience, to meet all of the requirements of the City Department of Public Safety with respect to public safety, including emergency access to and throughout the Site for police, fire and other emergency vehicles, while also providing maximum separation and screening of the School's driveways and access roads from residential properties. (See SEQRA Findings at 60.)

6.5.4 "Parking lots" will be of adequate size for the particular special permit "use," properly located and suitably screened from adjoining residential "uses," and the entrance and exit drives shall be laid out so as to achieve maximum convenience and safety.

Consistent with the SEQRA Findings, the Alternative Plan and Amended TMP submitted herewith show that FASNY has limited the number of on-site parking spaces for the Upper School to the minimum necessary. (See SEQRA Findings at 40-41 & 59-60.) As the SEQRA Findings recognize, the City Zoning Ordinance does not establish a minimum number of parking spaces for private secondary school uses. (See SEQRA Findings at 59-60.)

As detailed in the Amended TMP, the Upper School will provide 248 parking spaces, which will be sufficient for faculty, staff, visitors, and the limited number of students who will be allowed to drive to School. Additionally, the lots have been designed to comply with the requirements for off-street parking contained in Section 8.7 including landscaping (§8.7.5) and lighting (§8.7.7) to suitably buffer or screen these lots from adjoining residential properties.

Consistent with the SEQRA Findings, all parking areas have been located a minimum of 75 feet from adjacent residential properties. (See SEQRA Findings at 60.)

Site Plan Standards

The FASNY Site Plan meets all dimensional standards and requirements of the Zoning Ordinance relating to Site Plan approval (Section 7.5 of the White Plains Zoning Ordinance), as outlined below:

7.5.1 Conformity of all proposals with this Ordinance and with the goals of the "Comprehensive Plan."

The School fulfills the goals of the Comprehensive Plan, including, as discussed above, by preserving the role of Ridgeway as Collector Street.

7.5.2 The protection of environmental quality and the preservation and enhancement of property values in the neighboring area.

There are no environmentally sensitive features on Parcel A in accordance with Section 4.4.25 of the White Plains City Code. As discussed below, the School has been specifically designed to enhance and protect the character and property values of the neighboring communities. Moreover, the School has been designed specifically to harmonize with the surrounding community. This includes its detailed Landscaping Plan, which will screen the Project to the maximum extent practicable.

7.5.3 A quality of "building" and overall site design which will enhance and protect the character and property values of the adjacent neighborhood.

Again, the School has been specifically designed to enhance and protect the character and property values of the neighboring communities. Building and parking lot coverage on the Site, will be set back from adjacent residential uses preserving the open space character of the Project Site and its perimeter edges with residential uses. As contemplated by the SEQRA Findings, all proposed buildings, athletic fields, and structures have been located no less than seventy-five (75) feet from adjacent residential properties in the surrounding neighborhood. (See SEQRA Findings at 59.) And, again, the Landscaping Plan will screen the Project to the maximum extent practicable.


Conclusion

FASNY makes this submission in good faith pursuant to the Settlement Stipulation, and looks forward to working in good faith and cooperatively with the Common Council toward the timely resolution of this matter.

Please do not hesitate to contact us with any questions with respect to any of the foregoing.

Respectfully submitted,

ZARIN & STEINMETZ

By: 
Michael D. Zarin
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MDZ/mth

encs.

cc: Hon. Joan B. Lefkowitz (w/out encs.)
John Callahan, Corporation Counsel
Andrea Colombel, Chair of the Board of Trustees of FASNY